

(3) (4) *ffook*

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

Single Bench

WRIT PETITION NO. 2606 OF 2003

PETITIONER:

T.M. Shukla, son of late Ram Vrith Shukla, resident of Saivdhari colony, Siddharapara, district Ambikapur (C.G), aged about 45 years.

8 Sarbajit
Vs.

RESPONDENTS:

1. State of Chhattisgarh: Through: Local Welfare Department, D.K. Bhawan, Raipur (C.G).

2. Deputy Director, Directorate, Local Welfare and Development, Raipur (C.G).

3. Nagar Nigam, Ambikapur: Through: Commissioner.

P. R. No. 2510/03
Presented by *Shri. Sameer K. Mishra*
dated 25-08-03

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

DETAILS OF THE PETITION

(46)

HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION NO.2606 OF 2003

Petitioner : T.N.Shukla

versus

Respondents : State of Chhattisgarh and others

Present : Dr. Shailesh Ahuja, counsel for the petitioner.
Mr. Arun Sao, Government Advocate for respondents
No.1 and 2.
Mr. Sanjay K. Agrawal, counsel for respondent No.3.

ORDER

(Passed on 8th Day of December, 2006)

The petitioner is an employee of Municipal Corporation (earlier Municipal Council), Ambikapur, working as Assistant Grade-III. By order dated 2-7-2003 (Annexure P-1) passed by the State Government, the petitioner has been transferred from Municipal Corporation, Ambikapur to Nagar Panchayat, Sitapur. The petitioner has impugned the transfer order dated 2-7-2003 (Annexure P-1) on the sole ground that the transfer order is contrary to the statutory provision of Section 58(5) of the Madhya Pradesh/Chhattisgarh Municipal Corporation Act, 1956 (henceforth 'the Act, 1956').

2. Having heard learned counsel for the parties and having perused the records, it is evident that Sub-Section (5) of Section 58 of the Act, 1956 provides for transfer on deputation of an officer or servant

of Municipal Corporation to any other Municipal Corporation. There is no provision for transfer from Municipal Corporation to Nagar Panchayat. Sub-Section (1) of Section 58 of the Act, 1956 further provides for appointment of officers or servants of a Municipal Corporation, which is made by the Corporation itself. Thus, the employer cannot be changed without consent of the employee.

3. Full Bench of the High Court of Judicature at Jabalpur (Madhya Pradesh) in *Indore Nagar Nigam Karmachari Congress and another vs. State of Madhya Pradesh and another*¹, while upholding the validity of Section 58(5) and (6) of the Act, 1956, observed that the power should be exercised sparingly with great caution while transferring the employee from one Corporation to another. The reason is very simple as the lien of the employee is maintained in the Corporation wherein he was initially appointed. Thus, the transfer of the petitioner from Corporation to Nagar Panchayat is contrary to statutory provisions and all canons of service law. The petitioner, being an employee of the Corporation appointed by the Corporation, cannot be transferred to a Nagar Panchayat.

4. For the reasons stated hereinabove, this petition is allowed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

1 1998 (1) MPLJ 449